A/61/4

United Nations

# Report of the International Court of Justice

## 1 August 2005-31 July 2006

**General Assembly**
**Official Records**
**Sixty-first Session**
**Supplement No. 4 (A/61/4)**

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United Nations • New York, 2006

*Note*

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ISSN 0251-8473

[14 August 2006]

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## I. SUMMARY

1. The International Court of Justice, principal judicial organ of the United Nations, consists of 15 judges elected for a term of nine years by the General Assembly and the Security Council. Every three years one third of the seats fall vacant. The last elections to fill such vacancies were held on 7 November 2005. Sitting Judge Thomas Buergenthal (United States of America) was re-elected with effect from 6 February 2006; Messrs. Mohamed Bennouna (Morocco), Kenneth Keith (New Zealand), Bernardo Sepúlveda-Amor (Mexico) and Leonid Skotnikov (Russian Federation) were elected with effect from 6 February 2006.

On the latter date the Court, in its new composition, elected Judge Rosalyn Higgins (United Kingdom) as its President and Judge Awn Shawkat Al-Khasawneh (Jordan) as its Vice-President for a term of three years.

2. As from 6 February 2006, the composition of the Court is consequently as follows: President: Rosalyn Higgins (United Kingdom); Vice-President: Awn Shawkat Al-Khasawneh (Jordan); Judges: Raymond Ranjeva (Madagascar), Shi Jiuyong (China), Abdul G. Koroma (Sierra Leone), Gonzalo Parra-Aranguren (Venezuela), Thomas Buergenthal (United States of America), Hisashi Owada (Japan), Bruno Simma (Germany), Peter Tomka (Slovakia), Ronny Abraham (France), Kenneth Keith (New Zealand), Bernardo Sepúlveda-Amor (Mexico), Mohamed Bennouna (Morocco) and Leonid Skotnikov (Russian Federation).

3. The Registrar of the Court, elected for a term of seven years on 10 February 2000, is Mr. Philippe Couvreur; the Deputy-Registrar, re-elected on 19 February 2001, also for a term of seven years, is Mr. Jean-Jacques Arnaldez.

4. It should furthermore be noted that the number of judges ad hoc chosen by States parties during the period under review was 24, with these functions being carried out by 20 individuals (the same person is on occasion appointed to sit as judge ad hoc in more than one different case).

5. As the Assembly will be aware, the International Court of Justice, which celebrated its sixtieth anniversary in April last, is the only international court of a universal character with general jurisdiction. That jurisdiction is twofold.

6. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2006, 192 States were parties to the Statute of the Court and that 67 of them had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Finally, States may submit a specific dispute to the Court by way of special agreement, as a number have done recently.

7. Secondly, the Court may also be consulted, on any legal question, by the General Assembly or the Security Council, and, on legal questions arising within the scope of their activities, by other organs of the United Nations and specialized agencies having been so authorized by the General Assembly.

8. Over the past year, the number of cases pending before the Court has remained high. The Court decided two cases during the period under review and issued an order on a request for the indication of provisional

measures. It further held heavy hearings in the Genocide case instituted by Bosnia and Herzegovina against Serbia and Montenegro[1]. The number of cases on the docket now stands at 12[2].

9. The contentious cases come from all over the world: currently four are between European States, four others between Latin American States, two between African States, one between Asian States, whilst one is of an intercontinental character. This regional diversity illustrates the Court's universality.

10. The subject-matter of these cases is extremely varied. As well as "classic" territorial and maritime delimitation disputes and disputes relating to the treatments of nationals by other States, the Court is seized today of cases concerning more "cutting-edge" issues, such as allegations of massive human rights violations, including genocide, the use of force, or the management of shared natural resources.

11. The Court's docket increasingly includes fact-intensive cases in which the Court must carefully examine and weigh the evidence. No longer can it focus solely on legal questions. Such cases have raised a whole swathe of new procedural issues for the Court.

12. In the run-up to the Bosnia and Herzegovina v. Serbia and Montenegro case, the Court anticipated many issues likely to arise concerning witness evidence and examination. Special arrangements had to be made for the hearing of experts and witnesses — including the translation of statements, questions and replies from and into languages other than English and French — as well as with the Press.

13. At the same time, many cases have been rendered more complex as a result of preliminary objections to jurisdiction or admissibility and of counter-claims, as well as requests for the indication of provisional measures, which have to be dealt with as a matter of urgency.

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[1] By letter of 7 June 2006, the Office of Legal Affairs of the United Nations informed the Court that the Permanent Representative of Serbia and Montenegro to the United Nations in New York had requested on 3 June 2006 that the name "Serbia" be used as the official name of the Republic of Serbia within the United Nations. The Office of Legal Affairs also transmitted to the Court a copy of a letter dated 3 June 2006 whereby the President of the Republic of Serbia informed the Secretary-General of the United Nations that, following the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006, "the membership of the state union Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system, [would be] continued by the Republic of Serbia on the basis of Article 60 of the Constitutional Charter of Serbia and Montenegro". By a Note Verbale dated 6 June 2006, the Secretary-General transmitted to the Permanent Representatives of all Member States of the United Nations a copy of the communications from the Permanent Representative of Serbia and Montenegro and from the President of the Republic of Serbia. In his Note Verbale, the Secretary-General apprised Member States of the steps that were being taken to inform all organs and organizations of the United Nations system of the situation.

On 21 June 2006, the Office of Legal Affairs transmitted to the Court a letter dated 16 June 2006 whereby the Minister for Foreign Affairs of the Republic of Serbia informed the Secretary-General, inter alia, that "[t]he Republic of Serbia continue[d] to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro" and requested that "the Republic of Serbia be considered a party to all international agreements in force, instead of Serbia and Montenegro". Furthermore, on 28 June 2006, by its resolution 60/264, the General Assembly admitted the Republic of Montenegro as a new Member of the United Nations.

On 19 July 2006, the Office of Legal Affairs transmitted to the Court a letter dated 30 June 2006 addressed to the Secretary-General by the Minister for Foreign Affairs of the Republic of Serbia under cover of a Note Verbale of 3 July 2006 from the Permanent Mission of the Republic of Serbia to the United Nations. By his letter, the Minister confirmed the intention of the Republic of Serbia to continue to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro, with effect from 3 June 2006; he specified that all declarations, reservations and notifications made by Serbia and Montenegro would therefore continue in force with respect to the Republic of Serbia, unless the Secretary-General, as depositary, were notified otherwise.

[2] The Court delivered its Judgment in the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) in December 2005. The case nevertheless technically remains pending, in the sense that the Parties could again turn to the Court to decide the question of reparation if they are unable to agree on this point.

14. During the period under review the Court, on 19 December 2005, handed down its Judgment on the merits in the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda).[3] In respect of the claims by the Democratic Republic of the Congo (DRC), the Court found in that Judgment that, inter alia, Uganda, by engaging in military activities against the DRC on the latter's territory, by occupying Ituri and by actively extending support to irregular forces having operated on Congolese territory, had violated the principle of non-use of force in international relations and the principle of non-intervention. The Court further found that Uganda had violated its obligations under international human rights law and international humanitarian law and had violated other obligations it bore under international law, notably the obligation as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources. In light of the conclusions reached, the Court found that Uganda had an obligation to make reparation for the injury caused. It considered appropriate the DRC's request for the nature, form and amount of the reparation owed to it to be determined by the Court, failing agreement between the Parties, in a subsequent phase of the proceedings. The Court further found that Uganda had failed to comply with the Order indicating provisional measures handed down by the Court on 1 July 2000.

15. In respect of Uganda's counter-claims, the Court held Uganda's first claim to be admissible but did not uphold it, considering the evidence insufficient to prove that Uganda had been the target of armed rebel groups based in the DRC and supported by its Government. The Court held the second counter-claim admissible in part and found that, by virtue of the conduct of its armed forces, which attacked the Ugandan embassy in Kinshasa and maltreated diplomats and other persons on the embassy premises, as well as Ugandan diplomats at Ndjili International Airport, the DRC had breached its obligations under Articles 22 and 29 of the Vienna Convention on Diplomatic Relations. The Court further held that the removal of property and archives from the Ugandan embassy was in violation of the rules of international law on diplomatic relations. It pointed out however that it would only be in a subsequent phase of the proceedings that, failing agreement between the Parties, the specific circumstances of these violations, the precise damage suffered by Uganda and the extent of the reparation to which it was entitled would have to be demonstrated.

16. On 3 February 2006 the Court handed down its Judgment on its jurisdiction and the admissibility of the DRC's Application in the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda). The DRC offered some eleven bases for jurisdiction in its seizing of the Court in 2002: Article 30, paragraph 1, of the Convention against Torture; Article 9 of the Convention on Privileges and Immunities; the doctrine of forum prorogatum; the Order concerning the indication of provisional measures handed down by the Court on 10 July 2002; Article IX of the Genocide Convention; Article 22 of the Convention on Racial Discrimination; Article 29, paragraph 1, of the Convention on Discrimination Against Women; Article 75 of the WHO Constitution; Article XIV, paragraph 2, of the Unesco Constitution; Article 14, paragraph 1, of the Montreal Convention and Article 66 of the Vienna Convention on the Law of Treaties. The Court examined each such basis in its Judgment and concluded that none could found its jurisdiction in the case. It did however reiterate that there was a fundamental distinction between the acceptance by States of the Court's jurisdiction and the conformity of their acts with international law. Thus, the Court added, whether or not States have accepted the jurisdiction of the Court, they are required to fulfil their obligations under the United Nations Charter and the other rules of international law, including international humanitarian and human rights law, and they remain responsible for acts attributable to them which are contrary to international law.

17. On 13 July 2006 the Court rendered an Order on the request for the indication of provisional measures submitted by Argentina in the case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay). Argentina had requested the Court to indicate provisional measures requiring Uruguay, first, to suspend the authorizations for the construction of two pulp mills on the River Uruguay and halt building work on them

[3] See note 2 above.

pending a final decision by the Court and, second, to co-operate with Argentina to protect and preserve the aquatic environment of the River Uruguay, to refrain from taking any further unilateral action with respect to construction of the mills which did not comply with the 1975 Statute (a treaty signed by the two States on 26 February 1975 with a view to establishing the joint machinery necessary for the optimum and rational utilization of that part of the river constituting their joint boundary) and to refrain as well from any other action which might aggravate the dispute or render its settlement more difficult. The Court found that "the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures".

18. The judicial year 2005-2006 has been particularly busy, with the holding of nine weeks of hearings, including the calling of witnesses, witness-experts and experts, in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro).[4] The judicial year 2006-2007 will also be a busy one. In this connection the Court has already announced the opening dates for the oral proceedings in the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Preliminary Objections, and in the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Merits.

19. In order to cope with the heavy workload, the Court had already in 1997 taken various measures to rationalize the work of the Registry, to make greater use of information technology, to improve its own working methods and to secure greater collaboration from the parties to proceedings. An account of these various measures was set out in the report submitted to the General Assembly in response to Assembly resolution 52/161 of 15 December 1997 (see Appendix I to the Report of the Court for the period 1 August 1997 to 31 July 1998). These efforts have been continued. The Court has also taken steps to shorten and simplify proceedings. In December 2000, it revised certain provisions of its Rules (Arts. 79-80). As of October 2001, it adopted various Practice Directions (see pp. 98 and 99 of the Annual Report for 2001-2002). The Court welcomes the co-operation it has received from some parties to cases who have taken steps to reduce both the number and volume of written pleadings as well as the length of their oral arguments, and who in some cases provided the Court with their pleadings in both of its official languages. In April 2002, the Court reviewed again its working methods; they are subject to constant re-examination. In July 2004, it adopted further measures which mostly concern the internal functioning of the Court and are aimed at increasing the number of decisions rendered each year, thereby shortening the period between the closure of written proceedings and the opening of oral proceedings. In addition, the Court seeks better compliance by parties with its previous decisions aimed at accelerating proceedings and it intends to apply these decisions more strictly. The Court amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII (for the text of these Practice Directions, see pages 46 to 47 of the Annual Report for 2003-2004). Finally, in April and September 2005, it again amended provisions of the Rules of Court (Arts. 52 and 43, respectively).

20. With respect to its budget for the biennium 2006-2007, the Court was pleased that its requests for the creation of two posts were granted. The presence of a highly qualified officer, grade P-4, heading the IT Division will from now on enable the Court to make enhanced use of advanced technologies, as desired by the General Assembly. Further, the President of the Court, who must perform many diplomatic and administrative tasks in addition to her judicial duties, now enjoys the assistance of an officer in grade P-3.

21. However, there are only five law clerks available to carry out research for the other 14 Members of the Court and the 22 judges ad hoc chosen in the 12 cases pending before the Court. Given the Court's sustained activity and the need to respond as rapidly as possible to pending cases, the question of increasing the number of law clerks presents itself in ever more acute terms. The Court is of the view that, like members of all

[4]See note 1 above.

leading international courts and national courts, its Members are entitled to individualized legal assistance so that they can work more rapidly and efficiently in their deliberating and adjudicatory tasks. A request to increase the number of law clerks from five to 14 will be included in the Court's budget submission for the biennium 2008-2009.

22. In conclusion, the International Court of Justice welcomes the reaffirmed confidence that States have shown in the Court's ability to resolve their disputes. The Court will give the same meticulous and impartial attention to cases coming before it in the forthcoming year as it has during the 2005-2006 session.

## II. Organization of the Court

### A. Composition

23. The present composition of the Court is as follows: President: Rosalyn Higgins; Vice-President: Awn Shawkat Al-Khasawneh; Judges: Raymond Ranjeva, Shi Jiuyong, Abdul G. Koroma, Gonzalo Parra-Aranguren, Thomas Buergenthal, Hisashi Owada, Bruno Simma, Peter Tomka, Ronny Abraham, Kenneth Keith, Bernardo Sepúlveda-Amor, Mohamed Bennouna and Leonid Skotnikov.

24. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez.

25. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure, which is constituted as follows:

Members

President Higgins
Vice-President Al-Khasawneh
Judges Parra-Aranguren, Buergenthal and Skotnikov

Substitute Members

Judges Koroma and Abraham.

26. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro),[5] Bosnia and Herzegovina chose Sir Elihu Lauterpacht and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc. Following the resignation of Sir Elihu Lauterpacht, Bosnia and Herzegovina chose Mr. Ahmed Mahiou to sit as judge ad hoc.

27. In the case concerning the Gabčikovo-Nagymaros Project (Hungary/Slovakia), Judge Tomka being unable to sit in the case, Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

28. In the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Guinea chose Mr. Mohammed Bedjaoui and the Democratic Republic of the Congo Mr. Auguste Mampuya Kanunk'a Tshiabo to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Guinea chose Mr. Ahmed Mahiou to sit as judge ad hoc.

29. In the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), the Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

30. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro),[6] Croatia chose Mr. Budislav Vukas and Serbia and Montenegro Mr. Milenko Kreća to sit as judges ad hoc.

[5] See note 1 above.
[6] See note 1 above.

31. In the case concerning Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras), Nicaragua chose Mr. Giorgio Gaja and Honduras Mr. Julio González Campos to sit as judges ad hoc.

32. In the case concerning Territorial and Maritime Dispute (Nicaragua v. Colombia), Nicaragua chose Mr. Mohammed Bedjaoui and Colombia Mr. Yves L. Fortier to sit as judges ad hoc. Mr. Bedjaoui resigned from his duties in May 2006.

33. In the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), the Democratic Republic of the Congo chose Mr. Jean-Pierre Mavungu and Rwanda Mr. Christopher J. R. Dugard to sit as judges ad hoc.

34. In the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France), the Republic of the Congo chose Mr. Jean-Yves de Cara to sit as judge ad hoc. Judge Abraham being unable to sit in the case, France chose Mr. Gilbert Guillaume to sit as judge ad hoc.

35. In the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Malaysia chose Mr. Christopher J. R. Dugard and Singapore Mr. Pemmaraju Sreenevasa Rao to sit as judges ad hoc.

36. In the case concerning Maritime Delimitation in the Black Sea (Romania v. Ukraine), Romania chose Mr. Jean-Pierre Cot and Ukraine Mr. Bernard H. Oxman to sit as judges ad hoc.

37. In the case concerning Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua), Costa Rica chose Mr. Antônio Augusto Cançado Trindade and Nicaragua Mr. Gilbert Guillaume to sit as judges ad hoc.

38. In the case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay), Argentina chose Mr. Raúl Emilio Vinuesa and Uruguay Mr. Santiago Torres Bernárdez to sit as judges ad hoc.

## B. Privileges and Immunities

39. Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

40. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (I.C.J. Acts and Documents No. 5, pp. 201-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps; the Dean, who ranks after the President, is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and Members of the Court (ibid., pp. 207-213).

41. By resolution 90 (I) of 11 December 1946 (ibid., pp. 206-211), the General Assembly of the United Nations approved the agreements concluded with the Government of the Netherlands in June 1946 and recommended that

> "if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there",

and that

> "judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

42. The same resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

43. Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

## III. Jurisdiction of the Court

### A. Jurisdiction of the Court in contentious cases

44. On 31 July 2006, the 192 States Members of the United Nations were parties to the Statute of the Court.

45. Sixty-seven States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Commonwealth of Dominica, Costa Rica, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Senegal, Serbia and Montenegro,[7] Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed by the above States will appear in Chapter IV, Section II, of the I.C.J. Yearbook 2005-2006.

46. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the I.C.J. Yearbook 2005-2006. There are currently in force approximately 130 such multilateral conventions and approximately 180 such bilateral conventions. These lists include treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

### B. Jurisdiction of the Court in advisory proceedings

47. In addition to United Nations organs (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization;
International Civil Aviation Organization;
World Health Organization;
World Bank;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Telecommunication Union;
World Meteorological Organization;
International Maritime Organization;
World Intellectual Property Organization;
International Fund for Agricultural Development;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

[7] See note 1 above.

48. The international instruments that make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the I.C.J. Yearbook 2005-2006.

## IV. Functioning of the Court

### A. Committees of the Court

49. The committees constituted by the Court to facilitate the performance of its administrative tasks met a number of times during the period under review; they are composed as follows:

(a) the Budgetary and Administrative Committee: the President of the Court (Chair), the Vice-President of the Court and Judges Ranjeva, Buergenthal, Owada and Tomka;

(b) the Library Committee: Judge Buergenthal (Chair), Judges Simma, Tomka, Keith and Bennouna.

50. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judge Owada (Chair), Judges Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna and Skotnikov.

### B. The Registry of the Court

51. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. Thus its work is, on the one hand, judicial and diplomatic, while, on the other, it corresponds to that of the legal, administrative, financial, conference and information departments of an international organization. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are worked out in instructions drawn up by the Registrar and approved by the Court (see Rules, Art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is appended to this Report.

52. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. Working conditions are laid down in Staff Regulations adopted by the Court (see Art. 28 of the Rules of Court). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of secretariat officials of the equivalent category or grade.

53. Over the last 15 years, the Registry's workload, notwithstanding its adaptation to new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court.

54. Taking into account the creation of two professional posts in the 2006-2007 biennium, the staffing chart for the Registry shows at present a total of 100 staff members as follows: 47 staff members in the professional and higher category (of which 35 hold established posts and 12 temporary posts), and 53 staff members in the General Service category (of which 51 hold established posts and two temporary posts).

55. In order further to enhance the Registry's efficiency and in accordance with the views expressed by the General Assembly, a performance appraisal system was established for Registry staff, effective 1 January 2004.

The Registrar and Deputy-Registrar

56. The Registrar is the regular channel of communications to and from the Court and in particular effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present in person, or represented by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, in particular with other organs of the United Nations and with other international organizations and States and is responsible for information concerning the Court's activities and for the Court's publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

57. The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has since 1998 been entrusted with wider administrative responsibilities, including direct supervision of the Archives, IT and General Assistance Divisions.

58. The Registrar and the Deputy-Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 40 above, accorded the same privileges and immunities as Heads of Diplomatic Missions in The Hague.

The Registry's substantive divisions and units

Department of Legal Matters

59. This Department, composed of eight posts in the Professional category and one in the General Service category, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining judicial and procedural precedents, and prepares studies and notes for the Court and the Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the Headquarters agreements with the host country. Finally, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

60. Also attached to the Department is a pool of five law clerks, in the Professional category, whose task it is to undertake legal research at the request of Members of the Court.

Department of Linguistic Matters

61. This Department, currently composed of 17 posts in the Professional category and one in the General Service category, is responsible for the translation of documents to and from the Court's two official languages and provides support to Members of the Court (editing of notes, opinions, etc.). Documents translated include case pleadings and other communications from States parties, verbatim records of Court hearings, the Court's judgments, advisory opinions and orders, together with their drafts and working documents, judges' Notes,

minutes of Court and committee meetings, internal reports, notes, studies, memoranda and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat, etc. The Department also provides interpretation at private and public meetings of the Court and, as required, at meetings held by the President and Members of the Court with agents of the parties and other official visitors.

62. As a result of the growth of the Department since the 2002-2003 biennium, recourse to outside translators has been substantially reduced. However, outside translation assistance is still necessary on occasion, in particular for Court hearings. Outside interpreters are also still regularly required, notably for Court hearings and deliberations. The Department has attempted to use remote translation by sharing resources with other linguistic departments within the United Nations system but, so far, those departments approached have not been in a position to offer effective assistance. The Court will pursue its efforts in this regard.

Information Department

63. This Department, composed of three posts in the Professional category and one in the General Service category, plays an important part in the Court's external relations. Its duties consist of: preparing all documents or sections of documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the sections concerning the Court in various United Nations documents, the Yearbook, and documents for the general public); arranging for the dissemination of printed publications and public documents issued by the Court; encouraging and assisting the press, radio and television to report on the work of the Court (in particular by preparing press releases); replying to all requests for information on the Court; keeping Members of the Court abreast of information in the press or on the Internet concerning pending or possible cases; and organizing the public sittings of the Court and all other official events, in particular a large number of visits, including those by distinguished guests. The Department is also responsible for keeping the Court's website up to date.

Technical Divisions

Personnel Division

64. This Division, currently composed of one post in the Professional category and one in the General Service category, is responsible for various duties related to staff management and administration, including: planning and implementation of recruitment, appointment, promotion, training and separation of staff. In administering staff, it ensures observance of the Staff Regulations for the Registry and of those United Nations Staff Regulations and Rules which the Court determines to be applicable. As part of the recruitment process, the Division prepares vacancy announcements, reviews applications, arranges interviews for selection of candidates and prepares job offers for successful candidates, and provides introduction, orientation and briefing to new staff members. The Division also administers and monitors staff entitlements and benefits, handles the relevant personnel actions and liaises with the Office of Human Resources Management (OHRM) and the United Nations Joint Staff Pension Fund (UNJSPF).

Finance Division

65. This Division, composed of two posts in the Professional category and three in the General Service category, is responsible for financial matters. Its financial duties include inter alia: preparation of the budget; financial accounting and reporting; procurement and inventory control; vendor payments; payroll and payroll-related operations (allowances/overtime), and travel.

Publications Division

66. This Division, composed of three posts in the Professional category, is responsible for preparation of manuscripts, proofreading and correction of proofs, study of estimates and choice of printing firms in relation to the following official publications of the Court: (a) Reports of Judgments, Advisory Opinions and Orders;

(b) Pleadings, Oral Arguments, Documents (former "Series C"); (c) Bibliographies; (d) Yearbooks. It is also responsible for various other publications as instructed by the Court or the Registrar ("Blue Book" (handbook on the Court for the general public), "White Book" (composition of the Court and the Registry)). Moreover, as the actual printing of the Court's publications is outsourced, the Division is also responsible for the preparation, conclusion and implementation of contracts with printers, including control of all invoices. (For the Court's publications, see Chapter VIII below.)

Documents Division — Library of the Court

67. This Division, composed of two posts in the Professional category and three in the General Service category, has as its main task the acquisition, conservation and classification of leading works on international law, as well as a significant number of periodicals and other relevant documents. The Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation. It prepares bibliographies for Members of the Court as required and compiles an annual bibliography of all publications concerning the Court. It also has to make good the lack of a reference service for translators. The Division strives to incorporate new technologies, in particular by promoting the use of various databases, including those of the United Nations, thus following the Secretary-General's instructions in paragraph 66 of his report A/57/289 promoting electronic document management. It recently acquired new library management software which will afford the Court and the Registry online access to various catalogues and other services.

68. The Library of the Court is also responsible for the Archives of the Nuremberg Military Tribunal (including paper documents, gramophone records, films and some objects). Further to decisions taken by the Court and the Registry concerning the conservation of the Archives, the Library has implemented a focused conservation plan. First, the paper documents were moved in April 2006 in order to undergo disacidification by specialists. The next stage will be the digitization of those documents and the creation of a database through which they can be easily accessed. Research has also been undertaken with a view to digitizing the metal gramophone records containing the sound recordings made of the trial hearings. Although conservation measures were taken in respect of the films in 1987, the Library is also looking into the possibility of digitizing them. Measures for conserving the objects are also under way.

IT Division

69. The IT Division, composed of two posts in the Professional category and three in the General Service category, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the IT Division is responsible for the technical development and management of the ICJ website.

Archives, Indexing and Distribution Division

70. This Division, composed of one post in the Professional category and five in the General Service category, is responsible for indexing and classifying all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item on request. The duties of this Division include in particular the keeping of an up-to-date index of correspondence, incoming and outgoing, as well as of all documents, both official and other, held on file. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential. A new computerized system for managing both internal and external documents will become operational within the Division in the course of this biennium.

71. The Archives, Indexing and Distribution Division also handles the despatch of official publications to Members of the United Nations, as well as to numerous institutions and individuals.

Shorthand, Typewriting and Reproduction Division

72. This Division, composed of one post in the Professional category and nine in the General Service category, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

73. The Division is responsible in particular for the typing and reproduction of the following documents in addition to correspondence proper: translations of written pleadings and annexes, verbatim records of hearings and their translations, translations of judges' Notes and judges' amendments, judgments, advisory opinions and orders, translations of judges' opinions. In addition, it is responsible for checking documents and references, re-reading and page layout.

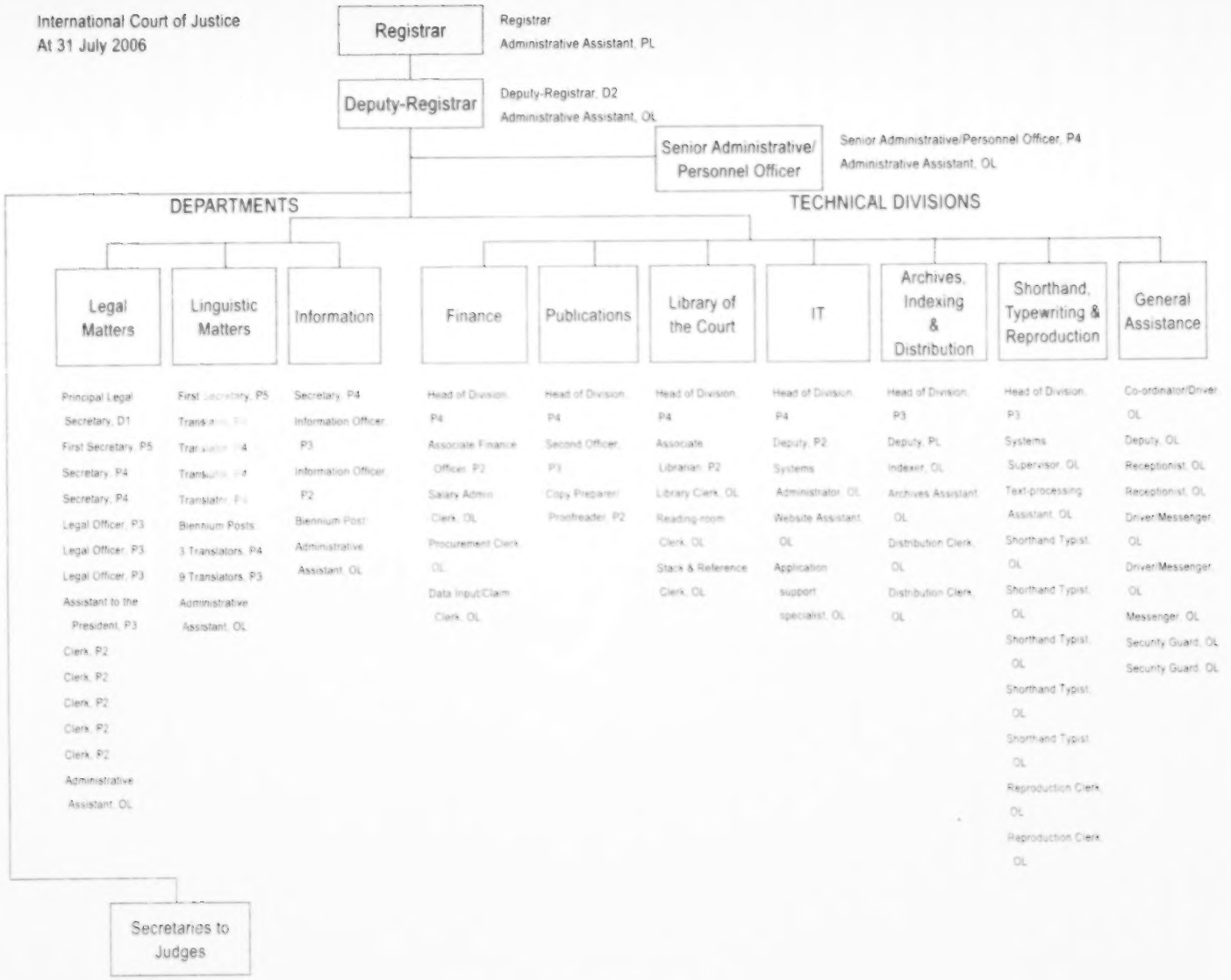
Judges' Secretaries

74. The work done by the 15 judges' secretaries is manifold and varied. As a general rule, the secretaries type Notes, amendments and opinions, as well as all correspondence of judges and judges ad hoc. They also check the references in Notes and opinions and provide other assistance as required.

General Assistance Division

75. The General Assistance Division, composed of nine posts in the General Service category, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

International Court of Justice
At 31 July 2006



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### C. Seat

76. The seat of the Court is established at The Hague (Netherlands), this, however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

77. The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the Permanent Court of International Justice as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing, as well as a number of newly constructed offices on the third floor of the Peace Palace, were inaugurated in 1997.

78. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946 and has undergone subsequent alterations. The agreement provides for the payment to the Carnegie Foundation of an annual contribution, which presently amounts to US$1,146,978.

### D. Peace Palace Museum

79. On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the museum created by the International Court of Justice and situated in the south wing of the Peace Palace.

80. Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907, the creation at that time of the Permanent Court of Arbitration, the subsequent construction of the Peace Palace as a seat for international justice, as well as the establishment and the functioning of the Permanent Court of International Justice and the present Court (different displays showcase the genesis of the United Nations, the Court and its Registry; the judges on the Bench; the provenance of judges and cases; the procedure of the Court; the world's legal systems; the case law of the Court; prominent visitors).

## V. Judicial work of the Court

81. During the period under review 14 contentious cases were pending; the number currently pending is 12.*

82. Over this period the Court was seized of three new cases: Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua); Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica v. Switzerland); and Pulp Mills on the River Uruguay (Argentina v. Uruguay).

83. An Application was also filed with the Court on 9 January 2006 by the Republic of Djibouti concerning a dispute with France regarding the alleged violation by the latter of its "international obligations in respect of mutual assistance in criminal matters" in the context of the investigation into the death of the French Judge Bernard Borrel in Djibouti in 1995. In its Application, Djibouti explained that the subject of the dispute specifically concerned "the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the 'Case against X for the murder of Bernard Borrel'". Djibouti maintains that

*See note 2 above.

this refusal constitutes a violation of France's international obligations under the Treaty of Friendship and Co-operation signed by the two States on 27 June 1977 and the Convention on Mutual Assistance in Criminal Matters between France and Djibouti, dated 27 September 1986. Djibouti further asserts in its Application that, in summoning certain internationally protected nationals of Djibouti (including the Head of State) as témoins assistés [legally represented witnesses] in connection with a criminal complaint for subornation of perjury against X in the Borrel case, France violated its obligation to prevent attacks on the person, freedom or dignity of persons enjoying such protection. The Republic of Djibouti seeks to found the jurisdiction of the Court on Article 38, paragraph 5, of the Rules of Court and is "confident that the French Republic will agree to submit to the jurisdiction of the Court to settle the present dispute". Under that paragraph:

> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

84. Pursuant to this provision, the Republic of Djibouti's Application was transmitted to the French Government. However, as of 31 July 2006, France had yet to accept the jurisdiction of the Court in this case; in consequence, no further documents have been transmitted and no procedural act has been undertaken.

85. The Court held public hearings in the following cases: Application of the Convention for the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro);[9] Pulp Mills on the River Uruguay (Argentina v. Uruguay).

86. The Court rendered judgment on the merits in the case concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), and on the preliminary objections to its jurisdiction and the admissibility of the Application raised by the Respondent in the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda).

87. In the case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay), the Court made an Order with respect to the request for provisional measures submitted by Argentina.

88. The Court also made Orders fixing or extending time-limits for the filing of pleadings in the following cases: Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua); Certain Criminal Proceedings in France (Republic of the Congo v. France); Maritime Delimitation in the Black Sea (Romania v. Ukraine). It further made an Order providing for the removal from the List of the case concerning Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica v. Switzerland).

89. The Court also amended Article 43 of its Rules.

[9] See note 1 above.

## A. Cases before the Court

### 1. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

90. On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia)[10] in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As basis for the jurisdiction of the Court, Bosnia and Herzegovina invokes Article IX of that Convention.

91. In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it must cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

92. On 20 March 1993 Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

93. On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, which was followed on 10 August 1993 by a request for provisional measures from Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

94. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

95. The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

96. On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court' s Order of 14 July 1995, public hearings were held between 29 April and 3 May 1996. On 11 July 1996, the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

97. In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of

[10]See note 1 above.

genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

98. By letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

99. After each Party had filed written observations, the Court, by an Order of 17 December 1997, held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the Parties contested the allegations made by the other.

100. Subsequently several exchanges of letters took place concerning further procedural difficulties in the case.

101. By an Order of 10 September 2001 the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

102. It is recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), by which it found that the request for revision was inadmissible.

103. It is further recalled that, on 4 May 2001, Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) submitted a document to the Court, entitled "Initiative to the Court to reconsider ex officio Jurisdiction over Yugoslavia". The submissions presented in that document were, first, that the Court had no jurisdiction ratione personae over Serbia and Montenegro and, secondly, that the Court should "suspend proceedings regarding the merits of the case until a decision on this Initiative", i.e. on the jurisdictional issue, had been rendered. In a letter dated 12 June 2003, the Registrar informed the Parties in the case that the Court had decided that it could not effect such a suspension of the proceedings in the circumstances of the case.

104. Public hearings on the merits of the case were held from 27 February 2006 to 9 May 2006. At the conclusion of those hearings, the Parties presented the following final submissions to the Court.

For Bosnia and Herzegovina:

"Bosnia and Herzegovina requests the Court to adjudge and declare:

1. That Serbia and Montenegro, through its organs or entities under its control, has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by intentionally destroying in part the non-Serb national, ethnical or religious group within,

but not limited to, the territory of Bosnia and Herzegovina, including in particular the Muslim population, by:

— killing members of the group;

— causing serious bodily or mental harm to members of the group;

— deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

— imposing measures intended to prevent births within the group;

— forcibly transferring children of the group to another group;

2. Subsidiarily:

(i) that Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by complicity in genocide as defined in paragraph 1, above; and/or

(ii) that Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by aiding and abetting individuals, groups and entities engaged in acts of genocide, as defined in paragraph 1 above;

3. That Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by conspiring to commit genocide and by inciting to commit genocide, as defined in paragraph 1 above;

4. That Serbia and Montenegro has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide for having failed to prevent genocide;

5. That Serbia and Montenegro has violated and is violating its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide for having failed and for failing to punish acts of genocide or any other act prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide, and for having failed and for failing to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to co-operate fully with this Tribunal;

6. That the violations of international law set out in submissions 1 to 5 constitute wrongful acts attributable to Serbia and Montenegro which entail its international responsibility, and, accordingly,

(a) that Serbia and Montenegro shall immediately take effective steps to ensure full compliance with its obligation to punish acts of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide or any other act prohibited by the Convention and to transfer individuals accused of genocide or any other act prohibited by the Convention to the International Criminal Tribunal for the former Yugoslavia and to fully co-operate with this Tribunal;

(b) that Serbia and Montenegro must redress the consequences of its international wrongful acts and, as a result of the international responsibility incurred for the above violations of the Convention on the Prevention and Punishment of the Crime of Genocide, must pay, and Bosnia and Herzegovina is entitled to receive, in its own right and as parens patriae for its citizens, full compensation for the damages and losses caused. That, in particular, the compensation shall cover any financially assessable damage which corresponds to:

(i) damage caused to natural persons by the acts enumerated in Article III of the Convention, including non-material damage suffered by the victims or the surviving heirs or successors and their dependants;

(ii) material damage caused to properties of natural or legal persons, public or private, by the acts enumerated in Article III of the Convention;

(iii) material damage suffered by Bosnia and Herzegovina in respect of expenditures reasonably incurred to remedy or mitigate damage flowing from the acts enumerated in Article III of the Convention;

(c) that the nature, form and amount of the compensation shall be determined by the Court, failing agreement thereon between the Parties one year after the Judgment of the Court, and that the Court shall reserve the subsequent procedure for that purpose;

(d) that Serbia and Montenegro shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of, the form of which guarantees and assurances is to be determined by the Court;

7. That in failing to comply with the Orders for indication of provisional measures rendered by the Court on 8 April 1993 and 13 September 1993 Serbia and Montenegro has been in breach of its international obligations and is under an obligation to Bosnia and Herzegovina to provide for the latter violation symbolic compensation, the amount of which is to be determined by the Court."

For Serbia and Montenegro:

"In accordance with Article 60, paragraph 2, of the Rules of Court, Serbia and Montenegro asks the Court to adjuge and declare:

— that this Court has no jurisdiction because the Respondent had no access to the Court at the relevant moment; or, in the alternative

— that this Court has no jurisdiction over the Respondent because the Respondent never remained or became bound by Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, and because there is no other ground on which jurisdiction over the Respondent could be based.

In case the Court determines that jurisdiction exists Serbia and Montenegro asks the Court to adjudge and declare:

— That the requests in paragraphs 1 to 6 of the Submissions of Bosnia and Herzegovina relating to alleged violations of the obligations under the Convention on the Prevention and Punishment of the Crime of Genocide be rejected as lacking a basis either in law or in fact.

— In any event, that the acts and/or omissions for which the respondent State is alleged to be responsible are not attributable to the respondent State. Such attribution would necessarily involve breaches of the law applicable in these proceedings.

— Without prejudice to the foregoing, that the relief available to the applicant State in these proceedings, in accordance with the appropriate interpretation of the Convention on the Prevention and Punishment of the Crime of Genocide, is limited to the rendering of a declaratory judgment.

— Further, without prejudice to the foregoing, that any question of legal responsibility for alleged breaches of the Orders for the indication of provisional measures, rendered by the Court on 8 April 1993 and 13 September 1993, does not fall within the competence of the Court to provide appropriate remedies to an applicant State in the context of contentious proceedings, and, accordingly, the request in paragraph 7 of the Submissions of Bosnia and Herzegovina should be rejected."

105. At the time of preparation of this Report, the Court was deliberating its Judgment.

2. Gabčikovo-Nagymaros Project (Hungary/Slovakia)

106. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčikovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

"(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,

(a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčikovo Project for which the Treaty attributed responsibility to the Republic of Hungary;

(b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary,

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

107. Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

108. Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčikovo-Nagymaros Project by virtue of Article 66 of the Rules of Court.

109. In its Judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

110. On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional judgment in the case. Such an additional judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

111. In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia indicated that it wanted the Court to determine the modalities for executing the Judgment.

112. As the basis for its request, Slovakia invokes Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

113. Hungary filed a written statement of its position on the request for an additional judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

114. The Parties have subsequently resumed negotiations and have informed the Court on a regular basis of the progress made.

3. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

115. On 28 December 1998 the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by filing an "Application for purposes of diplomatic protection", in which it requested the Court to find that "the Democratic Republic of the Congo is guilty of serious breaches of international law committed upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

116. According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unjustly imprisoned by the authorities of that State" for two and a half months, "despoiled of his sizable investments, business, movable and immovable property and bank accounts, and then", on 2 February 1996, "expelled from the country", because he had sought the payment of debts owed to him by the Democratic Republic of the Congo (in particular by Gécamines, a State undertaking with a monopoly over mining) and by oil companies established in that country (Zaire Shell, Zaire Mobil and Zaire Fina) under contracts with companies owned by him, namely Africom-Zaire and Africacontainers-Zaire.

117. As basis for the Court's jurisdiction, Guinea invokes the declarations whereby the Democratic Republic of the Congo and itself accepted the compulsory jurisdiction of the Court on, respectively, 8 February 1989 and 11 November 1998.

118. Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit for the deposit of its Counter-Memorial as extended, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

119. By an Order of 7 November 2002 the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

120. The Court has set 27 November 2006 as the date for the opening of hearings on the preliminary objections.

4. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)[11]

121. On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

122. In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved inter alia violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought

> "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the [Democratic Republic of the Congo] reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

123. Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter; that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols of 1977 and also guilty of massive human rights violations in defiance of the most basic customary law; that more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, Uganda had rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area; and that by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, Uganda had also violated certain conventions concerning international civil aviation. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

[11] See note 2 above.

124. The Democratic Republic of the Congo invokes as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

125. Taking into account the agreement of the Parties, the Court, by an Order of 21 October 1999, fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

126. On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

127. Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order, by which it unanimously found that both Parties must

> "forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve";
>
> "forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000"; and
>
> "forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

128. Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the filing of the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Ugandan counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002, the Court extended the

time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

129. By an Order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

130. The Court had initially fixed 10 November 2003 as the date for the opening of the hearings. However, by a letter dated 5 November 2003, the Democratic Republic of the Congo raised the question whether the hearings might be adjourned to a later date, in April 2004, in order to enable the diplomatic negotiations engaged by the Parties to be conducted in an atmosphere of calm. By a letter of 6 November 2003, Uganda indicated that it supported the proposal and adopted the request of the Congo.

131. By a letter dated 6 November 2003, the Registrar informed the Parties that the Court, acting under Article 54, paragraph 1, of the Rules of Court, and taking account of the representations made to it by the Parties, had decided that the opening of the oral proceedings would be postponed but had also decided that it was impossible to fix a date in April 2004 for the adjourned hearings. As the Court's judicial calendar until well into 2004 had been adopted some time before, providing for the hearing of, and deliberation on, a number of other cases, a new date for the opening of oral proceedings in this case would have to be fixed subsequently.

132. Public hearings on the merits of the case were held from 11 to 29 April 2005. At the conclusion of those hearings the Parties presented the following final submissions to the Court.

For the Democratic Republic of the Congo (with respect to its claims):

"The Democratic Republic of the Congo requests the Court to adjudge and declare:

1. That the Republic of Uganda, by engaging in military and paramilitary activities against the Democratic Republic of the Congo, by occupying its territory and by actively extending military, logistic, economic and financial support to irregular forces operating there, and having operated there, has violated the following principles of conventional and customary law:

— the principle of non-use of force in international relations, including the prohibition of aggression;

— the obligation to settle international disputes exclusively by peaceful means so as to ensure that international peace and security, as well as justice, are not placed in jeopardy;

— respect for the sovereignty of States and the rights of peoples to self-determination, and hence to choose their own political and economic system freely and without outside interference;

— the principle of non-interference in matters within the domestic jurisdiction of States, including refraining from extending any assistance to the parties to a civil war operating on the territory of another State.

2. That the Republic of Uganda, by committing acts of violence against nationals of the Democratic Republic of the Congo, by killing and injuring them or despoiling them of their property, by failing to take adequate measures to prevent violations of human rights in the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its

jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:

— the principle of conventional and customary law imposing an obligation to respect, and ensure respect for, fundamental human rights, including in times of armed conflict, in accordance with international humanitarian law;

— the principle of conventional and customary law imposing an obligation, at all times, to make a distinction in an armed conflict between civilian and military objectives;

— the right of Congolese nationals to enjoy the most basic rights, both civil and political, as well as economic, social and cultural.

3. That the Republic of Uganda, by engaging in the illegal exploitation of Congolese natural resources, by pillaging its assets and wealth, by failing to take adequate measures to prevent the illegal exploitation of the resources of the DRC by persons under its jurisdiction or control, and/or failing to punish persons under its jurisdiction or control having engaged in the above-mentioned acts, has violated the following principles of conventional and customary law:

— the applicable rules of international humanitarian law;

— respect for the sovereignty of States, including over their natural resources;

— the duty to promote the realization of the principle of equality of peoples and of their right of self-determination, and consequently to refrain from exposing peoples to foreign subjugation, domination or exploitation;

— the principle of non-interference in matters within the domestic jurisdiction of States, including economic matters.

4. (a) That the violations of international law set out in submissions 1, 2 and 3 constitute wrongful acts attributable to Uganda which engage its international responsibility;

(b) That the Republic of Uganda shall cease forthwith all continuing internationally wrongful acts, and in particular its support for irregular forces operating in the DRC and its exploitation of Congolese wealth and natural resources;

(c) That the Republic of Uganda shall provide specific guarantees and assurances that it will not repeat the wrongful acts complained of;

(d) That the Republic of Uganda is under an obligation to the Democratic Republic of the Congo to make reparation for all injury caused to the latter by the violation of the obligations imposed by international law and set out in submissions 1, 2 and 3 above;

(e) That the nature, form and amount of the reparation shall be determined by the Court, failing agreement thereon between the Parties, and that the Court shall reserve the subsequent procedure for that purpose.

5. That the Republic of Uganda has violated the Order of the Court on provisional measures of 1 July 2000, in that it has failed to comply with the following provisional measures:

> '(1) Both Parties must, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve;
>
> (2) Both Parties must, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000;
>
> (3) Both Parties must, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law.'"

For the Republic of Uganda (with respect to the claims of the Democratic Republic of the Congo and to its own counter-claims):

"The Republic of Uganda requests the Court:

1. To adjudge and declare in accordance with international law:

(A) That the requests of the Democratic Republic of the Congo relating to the activities or situations involving the Republic of Rwanda or her agents are inadmissible for the reasons set forth in Chapter XV of the Counter-Memorial and reaffirmed in the oral pleadings;

(B) That the requests of the Democratic Republic of the Congo that the Court adjudge and declare that the Republic of Uganda is responsible for various breaches of international law, as alleged in the Memorial, the Reply and/or the oral pleadings are rejected; and

(C) That Uganda's counter-claims presented in Chapter XVIII of the Counter-Memorial, and reaffirmed in Chapter VI of the Rejoinder as well as the oral pleadings be upheld.

2. To reserve the issue of reparation in relation to Uganda's counter-claims for a subsequent stage of the proceedings."

For the Democratic Republic of the Congo (with respect to the counter-claims of Uganda):

"The Congo requests the Court to adjudge and declare:

As regards the first counter-claim submitted by Uganda,

1. To the extent that it relates to the period before Laurent-Désiré Kabila came to power, Uganda's claim is inadmissible because Uganda had previously renounced its right to lodge such a claim: in the alternative, the claim is unfounded because Uganda has failed to establish the facts on which it is based;

2. To the extent that it relates to the period from the time when Laurent-Désiré Kabila came to power to the time when Uganda launched its armed attack, Uganda's claim is unfounded in fact because Uganda has failed to establish the facts on which it is based;

3. To the extent that it relates to the period subsequent to the launching of Uganda's armed attack, Uganda's claim is unfounded both in fact and in law because Uganda has failed to establish the facts on which it is based and, in any event, from 2 August 1998 the DRC was in a situation of self-defence.

As regards the second counter-claim submitted by Uganda:

1. To the extent that it now relates to the interpretation and application of the Vienna Convention of 1961 on Diplomatic Relations, the claim submitted by Uganda radically changes the subject-matter of the dispute, contrary to the Statute and to the Rules of Court; that part of the claim must therefore be dismissed from the present proceedings;

2. That part of the claim relating to the alleged mistreatment of certain Ugandan nationals remains inadmissible because Uganda has still failed to show that the requirements laid down by international law for the exercise of its diplomatic protection were satisfied; in the alternative, that part of the claim is unfounded because Uganda is still unable to establish the factual and legal bases of its claims.

3. That part of the claim relating to the alleged expropriation of Uganda's public property is unfounded because Uganda is still unable to establish the factual and legal bases of its claims."

133. On 19 December 2005, the Court rendered its Judgment. The operative paragraph of the Judgment reads as follows:

"For these reasons,

THE COURT,

(1) By sixteen votes to one,

Finds that the Republic of Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending military, logistic, economic and financial support to irregular forces having operated on the territory of the DRC, violated the principle of non-use of force in international relations and the principle of non-intervention;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judge ad hoc Kateka;

(2) Unanimously,

Finds admissible the claim submitted by the Democratic Republic of the Congo relating to alleged violations by the Republic of Uganda of its obligations under international human rights

law and international humanitarian law in the course of hostilities between Ugandan and Rwandan military forces in Kisangani;

(3) By sixteen votes to one,

Finds that the Republic of Uganda, by the conduct of its armed forces, which committed acts of killing, torture and other forms of inhumane treatment of the Congolese civilian population, destroyed villages and civilian buildings, failed to distinguish between civilian and military targets and to protect the civilian population in fighting with other combatants, trained child soldiers, incited ethnic conflict and failed to take measures to put an end to such conflict; as well as by its failure, as an occupying Power, to take measures to respect and ensure respect for human rights and international humanitarian law in Ituri district, violated its obligations under international human rights law and international humanitarian law;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judge ad hoc Kateka

(4) By sixteen votes to one,

Finds that the Republic of Uganda, by acts of looting, plundering and exploitation of Congolese natural resources committed by members of the Ugandan armed forces in the territory of the Democratic Republic of the Congo and by its failure to comply with its obligations as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources, violated obligations owed to the Democratic Republic of the Congo under international law;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judge ad hoc Kateka;

(5) Unanimously,

Finds that the Republic of Uganda is under obligation to make reparation to the Democratic Republic of the Congo for the injury caused;

(6) Unanimously,

Decides that, failing agreement between the Parties, the question of reparation due to the Democratic Republic of the Congo shall be settled by the Court, and reserves for this purpose the subsequent procedure in the case;

(7) By fifteen votes to two,

Finds that the Republic of Uganda did not comply with the Order of the Court on provisional measures of 1 July 2000;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judge Kooijmans; Judge ad hoc Kateka;

(8) Unanimously,

Rejects the objections of the Democratic Republic of the Congo to the admissibility of the first counter-claim submitted by the Republic of Uganda;

(9) By fourteen votes to three,

Finds that the first counter-claim submitted by the Republic of Uganda cannot be upheld;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judges Kooijmans, Tomka; Judge ad hoc Kateka;

(10) Unanimously,

Rejects the objection of the Democratic Republic of the Congo to the admissibility of the part of the second counter-claim submitted by the Republic of Uganda relating to the breach of the Vienna Convention on Diplomatic Relations of 1961;

(11) By sixteen votes to one,

Upholds the objection of the Democratic Republic of the Congo to the admissibility of the part of the second counter-claim submitted by the Republic of Uganda relating to the maltreatment of individuals other than Ugandan diplomats at Ndjili International Airport on 20 August 1998;

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Verhoeven;

AGAINST: Judge ad hoc Kateka;

(12) Unanimously,

Finds that the Democratic Republic of the Congo, by the conduct of its armed forces, which attacked the Ugandan Embassy in Kinshasa, maltreated Ugandan diplomats and other individuals on the Embassy premises, maltreated Ugandan diplomats at Ndjili International Airport, as well as by its failure to provide the Ugandan Embassy and Ugandan diplomats with effective protection and by its failure to prevent archives and Ugandan property from being seized from the premises of the Ugandan Embassy, violated obligations owed to the Republic of Uganda under the Vienna Convention on Diplomatic Relations of 1961;

(13) Unanimously,

Finds that the Democratic Republic of the Congo is under obligation to make reparation to the Republic of Uganda for the injury caused;

(14) Unanimously,

Decides that, failing agreement between the Parties, the question of reparation due to the Republic of Uganda shall be settled by the Court, and reserves for this purpose the subsequent procedure in the case."

134. Judge Koroma appended a declaration to the Judgment; Judges Parra-Aranguren, Kooijmans, Elaraby and Simma appended separate opinions; Judge Tomka and Judge ad hoc Verhoeven appended declarations; Judge ad hoc Kateka appended a dissenting opinion.

### 5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)

135. On 2 July 1999 the Republic of Croatia instituted proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia)[12] for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

136. In its Application, Croatia contended that

> "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing' of Croatian citizens from these areas . . . as well as extensive property destruction — and is required to provide reparation for the resulting damage".

Croatia further claims that

> "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Serbia and Montenegro] engaged in conduct amounting to a second round of 'ethnic cleansing'".

137. Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro "has breached its legal obligations" to Croatia under the Genocide Convention and that it

> "has an obligation to pay to . . . Croatia, in its own right and as parens patriae for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

138. As basis for the jurisdiction of the Court, Croatia invokes Article IX of the Genocide Convention, to which it stated that both itself and Serbia and Montenegro were parties.

139. On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and

[12]See note 1 above.

Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court).

140. Following a request from the Government of Bosnia and Herzegovina, the Court, after ascertaining the views of the Parties pursuant to Article 53, paragraph 1, of the Rules of Court, made copies of the pleadings and annexed documents available to Bosnia and Herzegovina.

141. On 25 April 2003, within the time-limit fixed by an Order of the Court of 14 November 2002, Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

### 6. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

142. On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

143. In its Application, Nicaragua stated inter alia that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", whereas Honduras's position was that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed [in an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

According to Nicaragua, the "position adopted by Honduras . . . has brought about repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further states that "[d]iplomatic negotiations have failed".

144. Nicaragua therefore requested the Court

> "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

145. As basis for the Court's jurisdiction, Nicaragua invokes Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

146. By an Order of 21 March 2000 the Court fixed 21 March 2001 and 21 March 2002 as respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

147. Copies of the pleadings and documents annexed were requested by the Governments of Colombia, Jamaica and El Salvador. In accordance with Article 53, paragraph 1, of its Rules, the Court ascertained the views of the Parties and, taking account of the views expressed by them, acceded to the first two countries' requests, but not to that of the third.

148. By an Order of 13 June 2002, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply and 13 August 2003 for the Rejoinder. The Reply of Nicaragua and the Rejoinder of Honduras were filed within the time-limits thus fixed.

149. By letters dated 19 October 2005 the Registrar, in accordance with Article 63, paragraph 1, of the Statute, notified all States parties to the United Nations Convention on the Law of the Sea, to which reference had been made by the Parties in their written pleadings; he also sent to the European Union, which is a party to the Convention, the notification provided for in Article 43, paragraph 2, of the Rules of Court as adopted on 29 September 2005, and asked that organization whether it intended to make written observations under this provision. By a letter dated 12 December 2005 Mr. Javier Solana, Secretary-General of the Council of the European Union, informed the Court that the European Union did not intend to submit written observations on the case.

150. The Court has set 5 March 2007 as the date for the opening of hearings in the case.

7. Territorial and Maritime Dispute (Nicaragua v. Colombia)

151. On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

152. In its Application, Nicaragua requested the Court to adjudge and declare:

> "First, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);
>
> Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

153. Nicaragua further indicated that it "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title". It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

154. As basis for the Court's jurisdiction, Nicaragua invokes Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

155. Copies of the pleadings and documents annexed were requested by the Governments of Honduras, Jamaica, Chile and Peru. Pursuant to Article 53, paragraph 1, of its Rules, the Court ascertained the view of the Parties and, taking account of the views expressed by them, acceded to those requests.

156. By an Order of 26 February 2002, the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

157. On 21 July 2003, within the time-limit for the submission of its Counter-Memorial, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Rules, Art. 79). Within the time-limit of 26 January 2004, as fixed by the Court in its Order of 24 September 2003, Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia.

### 8. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

158. On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning: "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations and OAU Charters".

159. In its Application, the Democratic Republic of the Congo stated that Rwanda had been guilty of "armed aggression" from August 1998 until the date of filing. According to the Applicant, that aggression had resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the Democratic Republic of the Congo, and "destruction of fauna and flora" of the country.

160. In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that, by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the OAU Charter; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 at Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

161. In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

162. On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order, by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. In that Order the Court also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

163. By an Order of 18 September 2002, the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the filing of a Memorial by Rwanda and 20 May 2003 for the filing of a Counter-Memorial by the Democratic Republic the Congo. Those pleadings were filed within the time-limits thus fixed.

164. Public hearings addressed to the questions of the jurisdiction of the Court and the admissibility of the Application were held from 4 to 8 July 2005. At the conclusion of those hearings the Parties presented the following final submissions to the Court.

For Rwanda:

"[T]he Republic of Rwanda requests the Court to adjudge and declare that:

1. it lacks jurisdiction over the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo; and

2. in the alternative, the claims brought against the Republic of Rwanda by the Democratic Republic of the Congo are inadmissible."

For the Democratic Republic of the Congo:

"May it please the Court,

1. to find that the objections to jurisdiction and admissibility raised by Rwanda are unfounded;

2. consequently, to find that the Court has jurisdiction to entertain the case on the merits and that the Application of the Democratic Republic of the Congo is admissible as submitted;

3. to decide to proceed with the case on the merits."

165. On 3 February 2006, the Court delivered its Judgment. The operative paragraph of the Judgment reads as follows:

"For these reasons,

THE COURT,

By fifteen votes to two,

Finds that it has no jurisdiction to entertain the Application filed by the Democratic Republic of the Congo on 28 May 2002.

IN FAVOUR: President Shi; Vice-President Ranjeva; Judges Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Simma, Tomka, Abraham; Judge ad hoc Dugard;
AGAINST: Judge Koroma; Judge ad hoc Mavungu."

166. Judge Koroma appended a dissenting opinion to the Judgment of the Court; Judges Higgins, Kooijmans, Elaraby, Owada and Simma appended a joint separate opinion; Judge Kooijmans appended a declaration; Judge Al-Khasawneh appended a separate opinion; Judge Elaraby appended a declaration; Judge ad hoc Dugard appended a separate opinion; Judge ad hoc Mavungu appended a dissenting opinion.

9. Certain Criminal Proceedings in France (Republic of the Congo v. France)

167. On 9 December 2002, the Republic of the Congo filed an Application instituting proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial

authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux Tribunal de grande instance had issued a warrant for the President of the Republic of the Congo to be examined as witness.

168. The Republic of the Congo contends that, by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

169. In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

170. By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

171. The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux Tribunal de grande instance".

172. Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

173. After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order, by which the Court found, by fourteen votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

174. Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge ad hoc de Cara a dissenting opinion.

175. By an Order of 11 July 2003, the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France. The Memorial and the Counter-Memorial were duly filed within the time-limits fixed.

176. By an Order of 17 June 2004, the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed 10 December 2004 and 10 June 2005 as respective time-limits for the filing of those pleadings. By Orders of 8 and 29 December 2004, of 11 July 2005 and of 11 January 2006, the President of the Court, taking account of the reasons given by the Republic of the Congo and of the agreement of the Parties, successively extended these time-limits to, respectively, 10 January and 10 August 2005, then to 11 July 2005 and 11 August 2006, then to 11 January 2006 and 10 August 2007, and finally to 11 July 2006 and 11 August 2008. The Reply was duly filed within the time-limit as so extended.

### 10. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

177. On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement, which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Special Agreement, the parties requested the Court

"to determine whether sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh;

(b) Middle Rocks;

(c) South Ledge,

belongs to Malaysia or the Republic of Singapore".

In Article 6, the Parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

The Parties further set out their views on the procedure to be followed.

178. By an Order of 1 September 2003, the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed 25 March 2004 and 25 January 2005 as respective time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial. The Memorials and Counter-Memorials were duly filed within the time-limits fixed.

179. By an Order of 1 February 2005, the Court, taking into account the provisions of the Special Agreement, fixed 25 November 2005 as the time-limit for the filing of a Reply by each of the Parties. The Replies were duly filed within the time-limit fixed.

180. By a joint letter of 23 January 2006 the Parties informed the Court that they had agreed that there was no need for an exchange of Rejoinders in the case. The Court itself subsequently decided that no further pleadings were necessary, and that the written proceedings were accordingly now closed.

### 11. Maritime delimitation in the Black Sea (Romania v. Ukraine)

181. On 16 September 2004, Romania filed an Application instituting proceedings against Ukraine in respect of a dispute concerning "the establishment of a single maritime boundary between the two States in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones appertaining to them."

182. In its Application Romania explained that, "following a complex process of negotiations", Ukraine and itself signed on 2 June 1997 a Treaty on Relations of Co-operation and Good-Neighbourliness, and concluded an Additional Agreement by exchange of letters between their respective Ministers for Foreign Affairs. Both instruments entered into force on 22 October 1997. By these agreements, "the two States assumed the obligation to conclude a Treaty on the State Border Régime between them, as well as an Agreement for the delimitation of the continental shelf and the exclusive economic zones . . . in the Black Sea". At the same time, "the Additional Agreement provided for the principles to be applied in the delimitation of the above-mentioned areas, and set out the commitment of the two countries that the dispute could be submitted to the ICJ, subject to the fulfilment of certain conditions". Between 1998 and 2004, 24 rounds of negotiations were held. However, according to Romania, "no result was obtained and an agreed delimitation of the maritime areas in the Black Sea was not accomplished". Romania brought the matter before the Court "in order to avoid the indefinite prolongation of discussions that, in [its] opinion, obviously cannot lead to any outcome".

183. Romania requested the Court "to draw in accordance with international law, and specifically the criteria laid down in Article 4 of the Additional Agreement, a single maritime boundary between the continental shelf and the exclusive economic zone of the two States in the Black Sea".

184. As basis for the Court's jurisdiction Romania invoked Article 4 (h) of the Additional Agreement, which provides:

> "If these negotiations [referred to above] shall not determine the conclusion of the above-mentioned agreement [on the delimitation of the continental shelf and the exclusive economic zones in the Black Sea] in a reasonable period of time, but not later than 2 years since their initiation, the Government of Romania and the Government of Ukraine have agreed that the problem of delimitation of the continental shelf and the exclusive economic zones shall be solved by the UN International Court of Justice, at the request of any of the parties, provided that the Treaty on the regime of the State border between Romania and Ukraine has entered into force. However, should the International Court of Justice consider that the delay of the entering into force of the Treaty on the regime of the State border is the result of the other Party's fault, it may examine the request concerning the delimitation of the continental shelf and the exclusive economic zones before the entering into force of this Treaty."

185. Romania contends that the two conditions set out in Article 4 (h) of the Additional Agreement had been fulfilled, since the negotiations had by far exceeded two years and the Treaty on the Romanian-Ukrainian State Border Régime had entered into force on 27 May 2004.

186. In its Application Romania further provided an overview of the applicable law for solving the dispute, citing a number of provisions of the Additional Agreement of 1997, as well as the 1982 Montego Bay United Nations Convention on the Law of the Sea, to which both Ukraine and Romania were parties, together with other relevant instruments binding the two countries.

187. By an Order of 19 November 2004, the Court, taking into account the views of the Parties, fixed 19 August 2005 and 19 May 2006 as time-limits for the filing of a Memorial by Romania and a Counter-Memorial by Ukraine. The Memorial and Counter-Memorial were duly filed within the time-limits fixed.

188. By Order of 30 June 2006 the Court authorized the filing of a Reply by Romania and a Rejoinder by Ukraine and fixed 22 December 2006 and 15 June 2007 as respective time-limits for the filing of these pleadings.

12. Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)

189. On 29 September 2005 Costa Rica filed an Application instituting proceedings against Nicaragua in a dispute concerning navigational and related rights of Costa Rica on the San Juan River.

190. In its Application Costa Rica stated that it sought "the cessation of the [Nicaraguan] conduct which prevents the free and full exercise and enjoyment of the rights that Costa Rica possesses on the San Juan River, and which also prevents Costa Rica from fulfilling its responsibilities" under certain agreements between itself and Nicaragua. Costa Rica further requested the Court to determine the reparation which must be made by Nicaragua. Costa Rica contended that "Nicaragua has — in particular since the late 1990s — imposed a number of restrictions on the navigation of Costa Rica's boats and their passengers on the San Juan River", in violation of "Article VI of the Treaty of Limits [signed in 1858 between Costa Rica and Nicaragua, which] granted to Nicaragua sovereignty over the waters of the San Juan River, recognizing at the same time important rights to Costa Rica". Costa Rica maintains that these rights were confirmed and interpreted by an arbitral award issued by the President of the United States of America, Mr. Grover Cleveland, on 28 march 1888, and by a judgment of the Central American Court of Justice of 1916, as well as by the "Agreement Supplementary to Article IV of the [1949] Pact of Amity". Costa Rica further contends that "these restrictions are of a continuing character".

191. As basis of jurisdiction Costa Rica invokes the declarations of acceptance of the Court's jurisdiction made by the Parties under Article 36, paragraph 2, of the Statute, as well as the Tovar-Caldera Agreement signed between the Parties on 26 September 2002. Costa Rica also relies on Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of Article XXXI of the "Pact of Bogotá" of 13 April 1948.

192. By Order of 29 November 2005, the Court fixed 29 August 2006 as the time-limit for the filing of a Memorial by Costa Rica and 29 May 2007 as the time-limit for the filing of a Counter-Memorial by Nicaragua.

13. Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica v. Switzerland)

193. On 26 April 2006 the Commonwealth of Dominica filed an Application instituting proceedings against Switzerland concerning alleged violations by the latter of the Vienna Convention on Diplomatic Relations, as well of other international instruments and rules, with respect to a diplomatic envoy of Dominica to the United Nations in Geneva.

194. In its Application Dominica stated that the diplomat in question, Mr. Roman Lakschin, had been accredited to the United Nations and its Specialized Agencies and to the World Trade Organization (WTO) since March 1996 as a member of the Permanent Mission of Dominica to the United Nations in Geneva (first as Counsellor, later as Chargé d'affaires and Deputy Permanent Representative with the rank of Ambassador). Dominica emphasized that this accreditation was "effected to the organisations and not to Switzerland", but that, nevertheless, Switzerland had "claimed the right to withdraw the accreditation" of the said envoy, "stating that [he] is a 'businessman' and [that] as such he would have no right to be a diplomat". Dominica contended that Switzerland could not be allowed to "control a small State like Dominica, which has a population of merely some 70,000 people and thus is severely restricted in the selection of foreign envoys". It further stated that it "has the right to send whichever envoy [it] considers appropriate to the United Nations in Geneva in [its] attempt to better [its] tourism, prospects and [its] economy". Dominica maintained that Switzerland had deprived it of "welcome and competent assistance in establishing and running a Mission in Geneva and thereby impeded the efforts of Dominica to develop trade and investment".

195. As basis for the Court's jurisdiction, Dominica invoked the declarations of acceptance of the Court's jurisdiction under Article 36, paragraph 2, of its Statute made by Dominica on 17 March 2006 and by

Switzerland on 28 July 1948, as well as Article 1 of the Optional Protocol to the Vienna Convention for the Compulsory Settlement of Disputes, to which both parties have adhered.

196. By letter of 15 May 2006, a faxed copy of which was received in the Registry on 24 May and the original on 6 June 2006, the Prime Minister of the Commonwealth of Dominica informed the Court that his Government "did not wish to go on with the proceedings instituted against Switzerland" and requested the Court to make an Order "officially recording [their] unconditional discontinuance" and "directing the removal of the case from the General List". By letter of 24 May 2006, the Swiss Ambassador in The Hague advised the Court that he had informed the competent Swiss authorities of the discontinuance as thus notified.

197. Accordingly, on 9 June 2006 the Court made an Order in which, after noting that the Government of the Swiss Confederation had not taken any step in the proceedings in the case, it recorded the discontinuance of the proceedings by the Commonwealth of Dominica and ordered that the case be removed from the List.

14. Pulp Mills on the River Uruguay (Argentina v. Uruguay)

198. On 4 May 2006 Argentina filed an Application instituting proceedings against Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed between the two States on 26 February 1975 (hereinafter "the 1975 Statute") for the purpose of establishing the joint machinery necessary for the optimum and rational utilization of that part of the river which constitutes their joint boundary.

199. In its Application Argentina charged the Government of Uruguay with having unilaterally authorized the construction of two pulp mills on the River Uruguay without complying with the obligatory prior notification consultation procedures under the Statute. Argentina claims that these mills pose a threat to the river and its environment, are likely to impair the quality of the river's waters and to cause significant transboundary damage to Argentina.

200. As basis for the Court's jurisdiction, Argentina cites the first paragraph of Article 60 of the 1975 Statute, which provides that any dispute concerning the interpretation or application of that Statute which cannot be settled by direct negotiations may be submitted by either party to the Court.

201. Argentina's Application was accompanied by a request for the indication of provisional measures, whereby Argentina asked that Uruguay be ordered to suspend the authorizations for construction of the mills and all building works pending a final decision by the Court, and to co-operate with Argentina with a view to protecting and conserving the aquatic environment of the River Uruguay, as well as to refrain from taking any further unilateral action with respect to construction of the two mills incompatible with the 1975 Statute, and from any other action which might aggravate the dispute or render its settlement more difficult.

202. Public hearings were held on the request for the indication of provisional measures on 8 and 9 June 2006, and on 13 July 2006, at a public sitting, the President of the Court read an Order whereby the Court, by 14 votes to one, found that the circumstances, as they now presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

203. By Order of 13 July 2006 the Court fixed 15 January 2007 as the time-limit for the filing of a Memorial by Argentina and 20 July 2007 as the time-limit for the filing of a Counter-Memorial by Uruguay.

## B. Amendment to Article 43 of the Rules of Court

204. As part of the ongoing review of its procedures and working methods, in September 2005 the Court adopted amendments to Article 43 of its Rules (Subsection 1. Institution of Proceedings) regarding the notifications to be sent by the Court to those not directly involved in a case who are parties to a convention whose construction may be in question in the proceedings.

205. Two new paragraphs have been added to the Article, in order to cover the case of international organizations parties to such conventions and to establish an appropriate procedural framework for this purpose. Until now, the Court has sent notifications in these circumstances only to States parties to such conventions.

206. The text of Article 43 of the Rules, as amended, is reproduced below:

"Article 43*

1. Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.

2. Whenever the construction of a convention to which a public international organization is a party may be in question in a case before the Court, the Court shall consider whether the Registrar shall so notify the public international organization concerned. Every public international organization notified by the Registrar may submit its observations on the particular provisions of the convention the construction of which is in question in the case.

3. If a public international organization sees fit to furnish its observations under paragraph 2 of this Article, the procedure to be followed shall be that provided for in Article 69, paragraph 2, of these Rules."

*Amendment having entered into force on 29 September 2005.

## VI. Sixtieth anniversary of the Court

### A. Colloquium organized in co-operation with UNITAR

207. On 10 and 11 April 2006 the Court, in co-operation with UNITAR (United Nations Institute for Training and Research), organized a colloquium at the Peace Palace in The Hague to mark its sixtieth anniversary. This colloquium, held under "Chatham House" rules (i.e., the ideas expressed may be cited, but on an unattributed basis), was attended by some hundred practitioners. It addressed issues of the Court's jurisdiction, rules of procedure and access.

208. The proceedings of the colloquium are due to be published later this year.

### B. Solemn commemorative sitting

209. On 12 April 2006, at the Peace Palace, the Court held a solemn sitting in the presence of Her Majesty the Queen of the Netherlands to celebrate the sixtieth anniversary of its inaugural sitting.

210. Also present at the ceremony were the United Nations Secretary-General, His Excellency Mr. Kofi Annan, the President of the General Assembly, His Excellency Mr. Jan Eliasson, and the Minister for Foreign Affairs of the Netherlands, Mr. Bernard Bot. Other guests included members of the diplomatic corps, representatives of the Dutch Parliament and Government and of other Dutch institutions, and senior members of international organizations based in The Hague, such as the Permanent Court of Arbitration (PCA), the Iran-United States Claims Tribunal, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC).

211. In his address the Secretary-General observed that the rules of international law "play an increasing role in our global society . . . They reflect the reality, but also the promise, of our international order" and "show the world not only as it is, but as it ought to be". Mr. Annan encouraged "all States that have not yet done so to consider recognizing the compulsory jurisdiction of the Court", inviting those who "are not yet prepared to [do so] to consider submitting their disputes to the Court by Special Agreements".

212. For his part, the President of the General Assembly emphasized that "the fact that Member States have, year after year, repeated their desire to see more use of the Court in settling disputes between States is strong evidence of the confidence Member States have in this World Court". Mr. Eliasson also reaffirmed the "full trust" of the General Assembly in the Court.

213. The Netherlands Foreign Minister stated that his country would also "help strengthen that jurisdiction wherever possible and will urge other countries to recognize it". Mr. Bot stated that it was his "firm conviction that strengthening the jurisdiction of the Court will make a major contribution to promoting the international legal order and the international rule of law".

214. Judge Bruno Simma, Member of the Court, then presented a summary of the conclusions of the colloquium held by the Court, in co-operation with UNITAR, on 10 and 11 April 2006.

215. In her closing address Judge Rosalyn Higgins, President of the Court, stressed that the International Court of Justice "is not only the principal judicial organ of the United Nations, but it is also the only international judicial body to possess general jurisdiction". Recognizing that "very important work" is being done by the more recently established international criminal courts and tribunals, she emphasized her belief

that, by "carefully balancing continuity and change, the Court will remain the lighthouse beacon in our ever-expanding system of international law". "This is a challenge for the period ahead", she concluded.

## VII. Visits

### A. Official visit of the President of the Russian Federation

216. On 2 November 2005 His Excellency Mr. Vladimir Putin, President of the Russian Federation, was received by the Court. At a solemn sitting held in the Great Hall of Justice and attended by the diplomatic corps and by representatives of the Dutch authorities, the Iran-United States Claims Tribunal, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Court and other international institutions located in The Hague, the President of the Court made a speech, to which the President of the Russian Federation replied.

217. President Shi recalled "the fundamental contribution that Russia has made to the development of various crucial currents of thought in international law", and highlighted the work of some of the eminent Russian scholars and judges "that have helped make the Court what it is today". He paid particular homage to Professor Fedor Martens, who played "a prominent role" in the international peace movement of the nineteenth century. "His dream of a temple of peace indeed inspired the creation of this Peace Palace", said the President of the Court, recalling that Martens "took an especially active part", as a member of the Russian delegation, in the work of the two peace conferences held in The Hague in 1899 and 1907 on Tsar Nicolas II's initiative. "Among other instruments, The Hague Conferences led to the signing of the Convention on the Laws and Customs of Land Warfare and the Convention for the Pacific Settlement of International Disputes" and led to the unanimous agreement for the establishment of a permanent court of arbitration, President Shi explained. President Shi also highlighted Russia's role in the establishment of the United Nations and the International Court of Justice as its principal judicial organ, adding that the United Nations Charter was signed by the prominent Russian jurist, Sergei Krylov, who was subsequently elected a Member of the Court. President Putin's visit, said President Shi, "bears witness to [Russia's] long-standing attachment to the cause of law and international justice". He quoted Russia's Foreign Minister Lavrov, who recently noted that the decisions of the Court "enjoy high authority" and serve "as an important instrument of peaceful settlement of disputes". The Court "welcomes this encouragement in the fulfilment of [its] task", concluded the President.

218. In reply, President Putin stated that, as a participant in the 2005 World Summit of the United Nations, Russia had "confirmed its commitment to the primacy of international law". "Russia", said the President, "is in favour of strengthening the Court's role and to this end supported the inclusion in the final document of the 2005 Summit of the provisions confirming the obligation of States to settle their disputes by peaceful means, including through the ICJ". The President stressed that "the judgments and advisory opinions of the ICJ play an extremely important role in strengthening and developing international legal principles and rules". "Thus", added the President, "the Court influences in a positive way the process of universalization of international law [and] serves to bolster the stability and legitimacy of the United Nations". President Putin concluded by stressing the ICJ's "vital role in the prevention of international conflicts and in the peaceful resolution of existing disputes . . . thereby facilitating the proper functioning of international justice". "Such a role", stated the President, "has become possible due to the independence of the Court and its unique composition".

### B. Other visits

219. During the period under review the President and Court Members, as well as the Registrar and Registry staff, received a large number of visitors, including members of governments, diplomats, parliamentary delegations, presidents and members of judicial bodies and other senior officials.

220. There were also many visits by groups of researchers, academics, lawyers and others.

## VIII. AWARDS

221. On 6 April 2006 the Court was presented with the "Fray Francisco Vitoria" medal, awarded by the municipality of Vitoria (birthplace of the famous Spanish "founding father of international law") and the University of the Basque Country. A ceremony was organised for the occasion in Vitoria, at which speeches were delivered by the Mayor of the city, Mr. Alfonso Alonso, the Rector of the University of the Basque Country, Mr. Juan Ignacio Pérez Iglesias, and the President of the Court, Judge Rosalyn Higgins.

222. "I wish to reiterate how honoured my colleagues and I are to receive this distinguished award on behalf of the International Court of Justice, in recognition of the Court's crucial role as a guardian of the respect of the international law", stated Judge Higgins, who was accompanied by a delegation of Court Members. "The Court will pursue its efforts to prove worthy of the hopes that have been placed on it and to fulfil the mission that was attributed to it 60 years ago by the draftsmen of the United Nations Charter", she added.

223. The "Fray Francisco Vitoria" medal is a prestigious award created by the city of Vitoria at the suggestion of the Advisory Scientific Board of the Vitora-Gasteiz international law and international relations courses, organized under the aegis of the University of the Basque Country. It is intended to honour individuals and institutions having made a notable contribution to the establishment of peace and the promotion of understanding within the international community.

## IX. Addresses on the work of the Court

224. During the period covered by this Report, the President of the Court, Judge Shi, on 27 October 2005 addressed the 39th Plenary Meeting of the Sixtieth Session of the General Assembly on the occasion of the presentation of the Court's Annual Report. On 28 October 2005, he also gave an address to the Sixth Committee of the General Assembly.

225. On 3 February 2006 President Shi made a statement to the press following the public reading of the Judgment of the Court in the case concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda); this statement was intended as an explanatory comment on the Court's Judgment.

226. On 22 June 2006 the President of the Court, Judge Higgins, made a speech in the course of the public debate organized by the Security Council on the theme, "Strengthening International Law".

227. On 13 July 2006 President Higgins made a statement to the press following the public reading of the Court's Order on Argentina's request for the indication of provisional measures in the case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay).

228. On 25 July 2006, at its fifty-eighth session, President Higgins addressed the International Law Commission on the work of the Court.

## X. Publications, documents and website of the Court

229. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the Sales and Marketing Sections of the United Nations Secretariat in New York and Geneva, which are in contact with specialized booksellers and distributors throughout the world. A catalogue (together with a price list) published in English and French is distributed free of charge. A revised and updated version of the Catalogue was published in 2004; an addendum will appear at the end of 2006.

230. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Yearbook (in the French version: Annuaire) and a Bibliography of works and documents relating to the Court. At the time of preparation of this Report, the fascicles in the Reports series for the period under review have either been printed or are in preparation for printing. The bound volume of I.C.J. Reports 2003 has been printed, while the volume for 2004 will appear as soon as the Index has been printed. The I.C.J. Yearbook 2003-2004 is at press and those for 2004-2005 and 2005-2006 are in preparation.

231. The Court also prepares bilingual printed versions of the instruments instituting proceedings in a case before it (applications instituting proceedings and special agreements), as well as requests for an advisory opinion. In the period under review, the Court received three Applications: Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua); Status vis-à-vis the Host State of a Diplomatic Envoy to the United Nations (Commonwealth of Dominica v. Switzerland); Pulp Mills on the River Uruguay (Argentina v. Uruguay). All are in the process of being printed.

232. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and annexed documents available on request to the government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of those pleadings and documents accessible to the public on or after the opening of the oral proceedings. The written pleadings in each case (in the format in which the parties produce them) are published by the Court after the end of the proceedings, in the series Pleadings, Oral Arguments, Documents. The annexes to the pleadings and the correspondence in cases are now published only exceptionally, as far as they are essential for the understanding of the decisions taken by the Court. The following documents have been published or are at various stages of production in the reporting period: Frontier Dispute (Burkina Faso/Republic of Mali) (4 volumes of text due for publication in September 2006); Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway) (3 volumes in final preparation); Aerial Incident of 10 August 1999 (Pakistan v. India) (1 volume, in press); Legality of the Use by a State of Nuclear Weapons in Armed Conflict and Legality of the Threat or Use of Nuclear Weapons (to be published together) (5 volumes in preparation); East Timor (Portugal v. Australia) (3-4 volumes in final preparation).

233. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition, No. 5, was published in 1989 and has been reprinted since that date, most recently in 1996. A new, totally updated edition has been prepared and will appear before the end of the year. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial Arabic, Chinese, German, Russian and Spanish translations of the Rules (without the amendments of 5 December 2000) are also available.

234. The Court distributes press releases, summaries of its decisions, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fifth edition of the handbook ("Blue Book") came out

in January 2006 in the Court's two official languages, French and English. Arabic, Chinese, Russian and Spanish translations of the previous version (published on the occasion of the fortieth anniversary of the Court in 1986) were issued in 1990. Arabic, Chinese, Dutch, English, French, Russian and Spanish editions of a general information booklet on the Court, produced in co-operation with the Department of Public Information of the United Nations, and intended for the general public, have also been published.

235. A special Illustrated Book of the Court ("Coffee Table Book"), in French and English, has been prepared and will appear in the second half of 2006, year of the Court's sixtieth anniversary. As well as this special publication, the Court will also be publishing the proceedings of the colloquium organized by it on 10 and 11 April 2006 to commemorate that anniversary (see para. 207 above).

236. In order to increase and expedite the availability of ICJ documents and reduce communication costs, the Court launched a website on the Internet on 25 September 1997, both in English and in French. The site is currently being totally reconstructed, with presentation and content being updated so as to improve user-friendliness and coverage and facilitate navigation between subject-headings and languages. The new site is due to be launched later this year.

237. It has already been possible since 1997, on the current site, to view the full text of Judgments, Advisory Opinions and Orders (posted on the day they are issued); summaries of earlier decisions; most of the relevant documents in pending cases (Application or Special Agreement, written pleadings (without annexes) as soon as they become accessible to the public, and oral pleadings); unpublished pleadings for earlier cases; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations accepting the Court's compulsory jurisdiction and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

238. Since March 1999 the Court has been offering individuals and institutions interested in its work an e-mail notification service for press releases posted on its website.

## XI. Finances of the Court

### A. Method of covering expenditure

239. Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, Member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

240. States which are not Members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute, a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

241. If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations.

242. The contributions of States which are not Members of the United Nations are taken into account as miscellaneous income received by the Organization. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat), bank interest, etc., are also recorded as United Nations income.

### B. Drafting of the budget

243. In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself.

244. When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ) and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations.

### C. Financing of appropriations and accounts

245. The Registrar is responsible for executing the budget, with the assistance of the Head of the Finance Division. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Sub-Committee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Administrative and Budgetary Committee of the Court.

246. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the internal auditors of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

## D. Budget of the Court for the biennium 2006-2007

247. Regarding the budget for the 2006-2007 biennium, the Court is pleased to note that its two requests for new posts have been accepted. With an experienced grade P-4 official heading up its IT Department, the Court will certainly now be in a better position to respond to the General Assembly's wish that it have greater recourse to new technology. Additionally, the Court now has a P-3 official to assist the President, who, over and above his or her judicial duties, performs a whole series of tasks of a diplomatic or administrative nature.

248. However, there are only five law clerks available to carry out research for the other 14 Members of the Court and the 22 judges ad hoc chosen in the 12 cases pending before the Court. Given the Court's sustained activity and the need to respond as rapidly as possible to pending cases, the question of increasing the number of law clerks presents itself in ever more acute terms. The Court is of the view that, like members of all leading international courts and national courts, its Members are entitled to individualized legal assistance so that they can work more rapidly and efficiently in their deliberating and adjudicatory tasks. A request to increase the number of law clerks from five to 14 will be included in the Court's budget submission for the biennium 2008-2009.

**Budget for 2006-2007**

| | |
|---|---|
| Programme: Members of the Court | |
| 0311025 Education Grants/Travel to Court sessions: Home leave | 664,200 |
| 0311023 Pensions | 2,459,500 |
| 0242504 Duty allowance: judges ad hoc | 383,800 |
| 2042302 Travel on official business | 44,200 |
| 0393902 Emoluments | 4,725,200 |
| | 8,276,900 |
| Programme: The Registry | |
| 0110000 Established posts | 11,344,500 |
| 0170000 Temporary posts for the biennium | 2,175,300 |
| 0200000 Common staff costs | 6,474,600 |
| 0211014 Representation allowance | 7,200 |
| 1210000 Temporary assistance for meetings | 1,491,500 |
| 1310000 General temporary assistance | 146,400 |
| 1410000 Consultants | 41,700 |
| 1510000 Overtime | 86,000 |
| 2042302 Official travel | 38,900 |
| 0454501 Hospitality | 18,300 |
| | 21,774,400 |
| Programme: Programme Support | |
| 3030000 External Translation | 259,300 |
| 3050000 Printing | 656,200 |
| 3070000 Data processing services | 127,600 |
| 4010000 Rental/maintenance of premises | 2,385,600 |
| 4030000 Rental of furniture and equipment | 39,900 |
| 4040000 Communications | 325,000 |
| 4060000 Maintenance of furniture & equipment | 228,00 |
| 4090000 Miscellaneous services | 40,200 |
| 5000000 Supplies & materials | 250,100 |
| 5030000 Library books & supplies | 163,800 |
| 6000000 Furniture & equipment | 84,100 |
| 6025041 Acquisition of office automation equipment | 96,400 |
| 6025042 Replacement of office automation equipment | 194,700 |
| 6040000 Replacement of Court's vehicles | 54,700 |
| | 4,905,600 |
| TOTAL | 34,956,900 |

## XII. Examination by the General Assembly of the previous Report of the Court

249. At the 39th Plenary Meeting of the Sixtieth Session of the General Assembly, held on 27 October 2005, at which the Assembly took note of the Report of the Court for the period from 1 August 2004 to 31 July 2005, the President of the Court, Judge Shi Jiuyong, addressed the Assembly on the role and functioning of the Court (A/60/PV.39).

250. In his address President Shi stated that, as it approached its sixtieth anniversary, "the popularity of the Court as a dispute resolution mechanism continue[d] to grow". "More and more States are beginning to realize how the Court can serve them", said the President, adding, "experience has shown that recourse to the Court is a pacifying measure". "The Court", the President continued, "is . . . ideally equipped to settle quickly and durably, at minimal costs, any type of legal dispute, whatever its nature and the type of solution pursued, and no matter what the status of the relationship between the litigant parties".

Still a heavy caseload, but a reduced backlog

251. The President reminded the Assembly of the "tremendous efforts" made by the Court "in the last decade to increase its judicial efficiency while maintaining its high quality of work". In particular, he stressed "how much [had] been accomplished since those not so distant times when there was talk of a serious backlog of cases at the Court". "[T]he total number of 21 cases on the docket of the Court . . . a year ago had dropped to 11 at the end of the period under review", though there were now in fact 12 cases on the List, following the institution of proceedings by Costa Rica against Nicaragua on 29 September 2005. "Although it still represented a substantial amount of work, 12 cases was indeed a perfectly reasonable number of cases to have on the docket of an international court", said the President.

252. The President explained that between 1 August 2004 and 31 July 2005 the Court had held hearings in three cases (Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda) and Frontier Dispute (Benin/Niger)) and handed down ten judgments (the eight cases concerning Legality of Use of Force between Serbia and Montenegro and various member States of NATO; the case concerning Certain Property (Liechtenstein v Germany) and the Frontier Dispute (Benin/Niger)).

253. President Shi pointed out that "the achievement of the Court during the review period reflecte[d] its commitment to dealing with cases as promptly and efficiently as possible, while maintaining the quality of its judgments and respecting the consensual nature of its jurisdiction".

Renewed appeal to the General Assembly for financial support

254. In his address the President of the Court urged the General Assembly to maintain its financial support for the Court, whose budget represented less than 1 per cent of the Organization's total budget. "In its budgetary request for the biennium 2006-2007, which is currently under consideration, the Court", stated President Shi, "has made every effort to restrict itself to proposals which are financially modest, but also of the utmost significance for the implementation of key aspects of its work". "The Court hopes that these budgetary proposals will meet with your agreement, thereby enabling the principal judicial organ of the United Nations better to serve the international community", added the President.

255. Following the President's presentation of the Court's Report, addresses were made to the Assembly by the Representatives of Cameroon, China, Costa Rica, Egypt, Japan, Kenya, Malaysia, Mexico, New Zealand, Nigeria, Pakistan, Peru, Republic of Korea, Russian Federation, Sri Lanka and Syria.

256. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 2005-2006, which will be issued at a later date.

Rosalyn HIGGINS,
President of the International
Court of Justice.

The Hague, 1 August 2006.

06-45195 (E) 150906